



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Douglas Baxter

File: B-265728

Date: June 7, 1996

DIGEST

A transferred employee was reimbursed a \$1,000 loan origination fee (1 percent), but was denied reimbursement for a \$700 loan processing fee. The lender provided an itemized breakdown of the loan processing fee with the notation that the term "loan origination fee" and the term "loan processing fee" are interchangeable. If the fee represents part of the administrative cost of processing paperwork associated with a loan origination fee, this expense may not be reimbursed because the maximum amount allowable has already been paid as a loan origination fee. If the fee is not part of the loan origination fee, then it is an additional charge by the lender incident to the extension of credit, *i.e.*, a finance charge, and is not reimbursable under 41 C.F.R. § 302-6.2(d)(2)(v) (1995). James A. Fairley, B-258932, Sept. 19, 1995.

DECISION

This decision responds to a request from an authorized certifying officer, National Finance Center, United States Department of Agriculture (USDA).¹ The question asked is whether a transferred employee may be reimbursed both a mortgage loan processing fee and a loan origination fee for the same real estate purchase transaction. The mortgage loan processing fee may not be reimbursed for the following reasons.

Mr. Douglas Baxter, an employee of the USDA's Rural Development Administration, was transferred from Klamath Falls, Oregon, to Woodland, California. He reported for duty on May 15, 1994. He had a residence constructed near his new duty station and went to settlement on October 7, 1994. Among the real estate expenses charged was a 1 percent loan origination fee (\$1,000)² and a separate processing fee

¹Ms. Sandra S. Williams - Reference FSD - 1 RJP.

²The attachment to the Settlement Statement shows that this fee was equally split between two parties, American Savings Bank and All Pacific Mortgage Company.

(\$700). The agency reimbursed Mr. Baxter for the loan origination fee, but disallowed his claim for the processing fee.

Mr. Baxter has reclaimed the loan processing fee and submitted correspondence from the All Pacific Mortgage Company stating that the terms "loan origination fee" and "loan processing fee" are interchangeable. The company also supplied an itemized listing of the expenses associated with the \$700 processing fee. Among the items listed was a charge for a loan underwriting fee. The remaining items were administrative-type charges.

Section 302-6.2(d)(1)(ii) of the Federal Travel Regulation (FTR),³ authorizes an employee to be reimbursed for a loan origination fee in an amount not to exceed 1 percent of the loan amount unless the lender itemizes his administrative charges to show by clear and convincing evidence that those charges do not include prepaid interest, points, or a mortgage discount. The employee has already been reimbursed \$1,000 as a loan origination fee of 1 percent.

A loan processing fee is identified as a finance charge under the Truth in Lending Act, 15 U.S.C. § 1601, *et seq.*, (1994), except for certain fees and expense items. 15 U.S.C. § 1605(e). The fees not included as finance charges are: fees for title examination, title insurance or similar purpose; fees for preparation of deeds, settlement statement, or other documents; tax and insurance escrows; fees for notarized deeds and other documents; appraisal fees and credit reports.

There is no exception stated for the items listed in the lender's breakdown of Mr. Baxter's loan processing fee, *i.e.*, the loan underwriting charge or the administrative charges.

The \$700 loan processing fee charged to Mr. Baxter is not shown by the lender to be different than the expected administrative cost of processing paperwork which would be included as part to the loan origination fee. If so, it may not be reimbursed since the full 1 percent has already been paid as a loan origination fee. If it is not considered part of the loan origination fee, then it must be deemed as addition charge imposed by the lender incident to the extension of credit and, thus, not reimbursable. James A. Fairley, B-258932, Sept. 19, 1995.⁴

³41 C.F.R. § 302-6.2(d)(1)(ii) (1995).

⁴See also Deane H. Zeller, B-205873, May 4, 1982; and George C. Souders, B-248457, Sept. 29, 1992.

Since section 302-6.2(d)(2)(v) of the FTR⁵ prohibits reimbursement to the employee for a finance charge, Mr. Baxter may not be reimbursed for the \$700 processing fee.

/s/Seymour Efros
for Robert P. Murphy
General Counsel

⁵41 C.F.R. § 302-6.2(d)(2)(v) (1995).